

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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UTICA COLLEGE,

Plaintiff,

vs

6:08-CV-88

GARY R. GORDON and JUDITH GORDON,

Defendants.

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APPEARANCES:

OF COUNSEL:

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RANDALL J. EZICK, ESQ.

DAVID N. HURD  
United States District Judge

**ORDER GRANTING  
PRELIMINARY INJUNCTION**

Plaintiff, Utica College, having commenced the above referenced action in New York State Supreme Court, Oneida County, on January 18, 2008 (Index Number CA2008-000167); and the Honorable Anthony F. Shaheen having issued an Order to Show Cause on January 18, 2008, temporarily restraining defendants from transferring, copying, maintaining, damaging, or otherwise doing anything with the computers provided by Utica College, as well as all documents, electronic communications, electronic data, files, e-mails, e-mail addresses, and other electronic or paper files created, produced, received, or maintained by Gary R. Gordon and Judith Gordon in the course of their former employment by Utica College in any capacity (the "Items"); and defendants having removed the action to the United States District Court for the Northern District of New York on January 24, 2008; and the parties having appeared through their counsel in a telephone conference with the Court on January 30, 2008, at which time the temporary restraining order was extended through the February 15, 2008, hearing on plaintiff's motion for a preliminary injunction; and this Court having considered the papers filed by the parties both in support and in opposition to plaintiff's motion and defendants' cross-motions, and having heard the arguments of counsel; and after due deliberation; the Court having issued a bench ruling that Utica College has demonstrated a likelihood of success on the merits and made a showing of irreparable harm.

Accordingly, it is

ORDERED that:

1. Defendants Gary R. Gordon and Judith Gordon, together with their agents and all persons acting in concert with them who received notice of this Order, are preliminarily

enjoined to deliver to Utica College or its designee, all computers and computer equipment provided by Utica College, and all documents, hard drives, electronic communications, electronic data, paper files, e-mails, e-mail addresses, and all other electronic or paper documents and files (the "Items") that were created, produced, received, or maintained by the Gordons, or either of them, in the course of their employment by Utica College in any capacity; including, but not limited to, Gary R. Gordon's employment as the Executive Director of the Economic Crime Institute, all such items and created, produced, received, or maintained by the Gordons, or either of them relating to Gary Gordon's service as Executive Director of the Center for Management and Information Protection ("CIMIP"), without retaining any copies of the Items; and defendants are further preliminarily enjoined from otherwise transferring, assigning, maintaining, damaging, possessing, or otherwise doing anything with the Items that is inconsistent with this Order;

2. The requirement for an injunction bond is waived;

3. Defendants' cross-motion pursuant to Rule 12(e) of the Federal Rules of Civil Procedure for an Order requiring Utica College to particularize its claims for breach of fiduciary duty, and defendants' cross-motion pursuant to Rule 67 of the Federal Rules of Civil Procedure for an Order permitting defendants to deposit the Items with the Court are DENIED; and

4. Defendants' Answer to the Complaint shall be served and filed on or before March 14, 2008.

IT IS SO ORDERED.

Dated: February 25, 2008  
Utica, New York.



United States District Judge

